

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 23, 1865.

Read twice and referred to the Committee on the Judiciary.

AN ACT

To regulate the taking of depositions in certain cases.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That any defendant in a criminal case, in the District of
4 Columbia, either after preliminary examination, indictment,
5 or information, may examine witnesses on commission in such
6 manner as is hereinafter prescribed.

1 SEC. 2. *And be it further enacted,* That a defendant
2 wishing to take the deposition of a witness residing more
3 than one hundred miles from the city of Washington may
4 select any of the following officers as a commission to take
5 such deposition: the clerk or judge of any court of record,
6 or any notary public, or any consul of the United States,
7 either by the name of office of such officer, or by his indi-
8 vidual name and official style; and the name of the court of
9 which such constituted commissioner is clerk or judge, and
10 the name of the State and county, or if without the United

11 States the name of the State and town, or city, in which such
 12 notary or consul resides must be stated in the notice and in
 13 the commission.

1 SEC. 3. *And be it further enacted,* That five days' notice
 2 must be given by a defendant, or his or her attorney, of the
 3 time when a commission will be sued out of the office of the
 4 clerk of the criminal court for the District of Columbia for
 5 taking the deposition of the witness, (giving the name of the
 6 witness,) which notice must be accompanied with a copy of
 7 the interrogatories to be asked such witness.

1 SEC. 4. *And be it further enacted,* That at or before
 2 the time fixed in the notice, the district attorney may file
 3 cross-interrogatories; but if he fail so to do, the clerk shall
 4 file the following :

5 First. Are all of your statements in the foregoing
 6 answers made from your personal knowledge; and if not, do
 7 your answers show what are made from your personal knowl-
 8 edge, and what from information, and the source of that in-
 9 formation? If not, now show what is from information, and
 10 give its source.

11 Second. State everything you know concerning this case
 12 favorable to either the government or the defendant.

1 SEC. 5. *And be it further enacted,* That the notice and
 2 copy of interrogatories may be served and returned in the
 3 same manner and by the same officers or persons as is pro

4 vided by law for the service and return of a summons or
5 subpoena in civil actions within the District of Columbia.

1 SEC. 6. *And be it further enacted,* That the commission
2 shall issue in the name of the criminal court, and under its
3 seal, and must be signed by the clerk, and need contain
4 nothing but the authority conferred upon the commissioner
5 and instructions to guide him, a statement of the cause in
6 which the testimony is to be used, and a copy of all the
7 interrogatories filed appended.

1 SEC. 7. *And be it further enacted,* That the person before
2 whom any of the depositions above contemplated are taken
3 must cause the interrogatories appended to the commission to
4 be written out, and the answers thereto to be inserted imme-
5 diately underneath the respective questions; the whole, when
6 completed, being read over by or to the witness, must be by
7 him or her subscribed and sworn to in the usual manner.

1 SEC. 8. *And be it further enacted,* That all exhibits pro-
2 duced before the person taking the deposition, or proved or re-
3 ferred to by any witness, or correct copies thereof, must be ap-
4 pended to the depositions, and returned with them, unless
5 sufficient reasons be shown for not so doing.

1 SEC. 9. *And be it further enacted,* That the person
2 taking the deposition shall attach his certificate thereto,
3 stating that it was subscribed and sworn to by the defendant
4 at the time and place therein mentioned; the whole, including

5 the commission and interrogatories, must then be sealed up
6 and returned to the clerk of the criminal court of the District
7 of Columbia, by mail, unless the defendant and the district
8 attorney agree upon some other mode; and, when received
9 by said clerk, he shall open the package and place the depo-
10 sition on file in his office.

1 SEC. 10. *And be it further enacted*, That unimportant
2 deviations from any of the above directions shall not cause
3 the depositions to be excluded where no substantial prejudice
4 could be wrought to the government by such deviation.

1 SEC. 11. *And be it further enacted*, That, subject to
2 the regulations hereinbefore contained, the court may estab-
3 lish further rules for taking depositions and all other acts con-
4 nected therewith.

Passed the House of Representatives February 22, 1865.

Attest:

EDWARD McPHERSON, *Clerk*.